IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE TENTH DAY OF FEBRUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE M.H.S. ANSARI

and
THE HON'BLE MR JUSTICE T.CH.SURYA RAO

WRIT PETITION NO : 19688 of 2004

Between:

M/s. Mercury Metal Corporation, Khaji Street, Rajahmundry,
rep. by its Partner, Mr. Grandhi Subba Rao.

..... PETITIONER

AND

1 The Commercial Tax Officer, Rajahmundry Circle,

Rajahmundry.
2 M/s. AP Backward Classes Cooperative Finance Corp.,

Ltd., 6th Floor, Samkshema Bahavan, Masab Tank,

Hyderabad, rep. by its Vice Chairman & Managing

Director.
3 The Deputy Commercial Tax Officer, Rangreezpeta,

Rajahmundry.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed herein the High Court may be pleased to Issue a Writ of Mandamus or any other appropriate Writ or order direction. a) Declaring the action of the 1st and 3rd respondents in proceedings to recover the balance tax due of Rs. 3,45,139/- for the assessment year 1999-2000 in respect of the sales made to the 2nd respondent under the Adarna Project as illegal and arbitrary; b) Direct the 2nd respondent Corporation to pay the sales tax on the turnover of Rs. 2,39,960/- at 10% (till 22.02.1999) on a turnover of Rs. 3.56,550/- at 4% for the assessment year 1998-99 (from 23.2.1999) and on Rs. 2,51,19.550 @ 4% for the assessment year 1999-00 directly to the 1st respondent in accordance with the understanding entered with the Commercial Tax Department and with the petitioner by the 2nd respondent regarding payment of sales tax; c) to declare the assessment order dt. 7.3.2002 for the assessment year 1999-2000 as void and nonest order for non-compliance of Rule 12 of APGST Rules. d) or in the alternative direct the 1st respondent to revise the assessments of 1998-99 & 1999-2000 and re-determine the liability in accordance with the Award passed by the arbitrator dt. 11.3.2002. e) or as the alternative direct the 1st 3rd respondents to defer the recovery of balance tax of Rs. 3.45,139 for the assessment year 1999-2000 till disposal of O.P.No.1297/2002 filed by the petitioner on file of Chief Judge, C.C.C., Hyderabad, and pass.

Counsel for the Petitioner:MR.P.SRINIVASA REDDY

Counsel for the Respondent No.: GP FOR COMMERCIAL TAXES For R-1 & R-3. Mr.Subba Reddy for R-2.

The Court made the following :

O R D E R (Per MHSA,J)

On behalf of the petitioner, representation is made for leave to withdraw the above writ petition, with liberty to avail of the efficacious alternative remedy of appeal.

2. Accordingly writ petition is dismissed as withdrawn with liberty as

prayed for.

M.H.S.ANSARI,J

T.CH.SURYA RAO,J

AVS

DATE:10.02.2005

To

1 The Commercial Tax Officer, Rajahmundry Circle,

Rajahmundry.
2 M/s. AP Backward Classes Cooperative Finance Corp.,

Ltd., 6th Floor, Samkshema Bahavan, Masab Tank,

Hyderabad, rep. by its Vice Chairman & Managing

Director.
3 The Deputy Commercial Tax Officer, Rangreezpeta,

Rajahmundry.

4. Two C.Cs. to G.P. for Commercial Taxes, A.P. High Court Buildings (O.U.T.).

5. Two C.D. copies.